

Parties

3. The Plaintiff in this case is Reorganized Debtor TX Superior Communications, LLC, under Chapter 11 of Title 11 of the United States Bankruptcy Code in case number 18-52973 pending in the Western District of Texas. Debtor's case was confirmed on October 7, 2019; however, the plan and disclosure state envisioned the reorganized Debtor filing motions to resolve a UCC filing related to an entity that did not participate in the bankruptcy.

4. The defendant is an unknown party that filed a UCC lien with the Texas Secretary of State against Reorganized Debtor identifying First Corporate Solutions as its representative in UCC Financing Statement Filing No. 18-0032351225 on September 13, 2018, attached herein and incorporated by reference as **Exhibit A**. The unknown party may be served through its registered agent

a. First Corporate Solutions at 914 S Street in Sacramento, California 95811.

Factual Allegations

5. First Corporate Solutions ("First") filed its lien against Reorganized Debtor in a representative capacity for an undisclosed amount on September 13, 2018. UCC Financing Statement Filing No. 18-0032351225, Document No. 83679250001 is attached herein and incorporated by reference as **Exhibit A**.

6. Reorganized Debtor contends this lien is completely unsecured because it is junior to other creditors' liens, which will cover all of Reorganized Debtor's assets and are senior to both First and Max's liens.

7. Reorganized Debtor owns assets worth \$304,392.

8. Newtec Small Business Finance Inc. ("Newtec") has a secured claim in the amount of \$369,653, which was perfected by UCC filing with the Texas Secretary of State on March 9, 2018. The Newtec lien is a blanket lien over all Reorganized Debtor's assets and exceeds the value of Reorganized Debtor's assets. At least one other creditor filed a UCC lien prior to the First lien. Corporation Service Company, as representative of Yellowstone Capital filed its lien against Reorganized Debtor on April 10, 2018, UCC Financing Statement Filing No. 18-0012462246 Document No. 806338800001. The allowed claim for Yellowstone is \$63,334 of which it is to receive ½ this amount in the plan. While there are other senior claims to the First claim, the Yellowstone and Newtec liens would completely cover all of Reorganized Debtor's assets leaving no secured interest in Debtor's assets.

Determination of the Extent, Validity, or Priority of Liens Held by Max and First

9. Plaintiff incorporates the allegations listed in the factual allegations section above.

10. Section 506 of the Bankruptcy Code defines the secured and unsecured status of debts based on the value of the underlying collateral. This Section provides, in relevant part:

An allowed claim of a creditor secured by a lien on property in which the estate has an interest. . . is a secured claim to the extent of the value of such creditor's interest in the estate's interest in such property. . . and is an unsecured claim to the extent that the value of such creditor's interest or the amount so subject to setoff is less than the amount of such allowed claim.

11 U.S.C. § 506(a) (2019).

11. Accordingly, under the above provision of 11 U.S.C. § 506(a), the First lien is wholly unsecured and subject to removal and treatment as an unsecured claim in the Reorganized Debtor's case.

Relief Requested

Plaintiff requests that this Court:

1. Enter judgment against the unknown party represented by First Corporate Solutions;
2. Value the interest and any claim of the unknown party represented by First Corporate Solutions in the Reorganized Debtor's property at the fair market value of \$0.00;
3. Strip off the under-secured lien of the unknown party represented by First Corporate Solutions on Reorganized Debtor's property and treat the unknown party represented by First Corporate Solutions' lien as an unsecured claim; and
4. Grant any and all other relief the Court deems appropriate.

Dated: November 6, 2019.

Smeberg Law Firm, PLLC

BY: /s/ Ronald J. Smeberg

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Attorneys for Debtor

FOLLOW INSTRUCTIONS

Ex A

A. NAME & PHONE OF CONTACT AT FILER (optional)
B. E-MAIL CONTACT AT FILER (optional)
C. SEND ACKNOWLEDGMENT TO: (Name and Address) First Corporate Solutions 914 S Street Sacramento, CA 95811 USA

FILING NUMBER: 18-0032351225
FILING DATE: 09/13/2018 01:41 PM
DOCUMENT NUMBER: 836792590001
FILED: Texas Secretary of State
IMAGE GENERATED ELECTRONICALLY FOR XML FILING
THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S NAME - Provide only one Debtor name (1a or 1b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the Individual Debtor's name will not fit in line 1b, leave all of item 1 blank, check here ☐ and provide the Individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

OR	1a. ORGANIZATION'S NAME TX SUPERIOR COMMUNICATIONS, LLC			
	1b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX

1c. MAILING ADDRESS 6223 KREMPEN AVE	CITY SAN ANTONIO	STATE TX	POSTAL CODE 78233	COUNTRY USA
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2. DEBTOR'S NAME - Provide only one Debtor name (2a or 2b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the Individual Debtor's name will not fit in line 2b, leave all of item 2 blank, check here ☐ and provide the Individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

OR	2a. ORGANIZATION'S NAME			
	2b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX

2c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY
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3. SECURED PARTY'S NAME (or NAME of ASSIGNEE of ASSIGNOR SECURED PARTY) - Provide only one Secured Party name (3a or 3b)

OR	3a. ORGANIZATION'S NAME FIRST CORPORATE SOLUTIONS, AS REPRESENTATIVE			
	3b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX

3c. MAILING ADDRESS 914 S STREET / SPRS@FICOSO.COM	CITY SACRAMENTO	STATE CA	POSTAL CODE 95811	COUNTRY USA
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4. COLLATERAL: This financing statement covers the following collateral:
Collateral - All present and future assets of the Debtor. Notice - Pursuant to an agreement between Debtor and Secured Party, debtor has agreed not to grant a security interest in the above collateral to any other entity. Accordingly, the acceptance of any security interest by anyone other than the Secured Party is likely to constitute the tortious interference with the Secured Party's rights. In the event that any entity is granted a security interest in Debtor's accounts, chattel paper or general intangibles contrary to the above, the Secured Party asserts a claim to any proceeds thereof received by such entity.

5. Check only if applicable and check only one box: Collateral is ☐ held in a Trust (see UCC1Ad, item 17 and Instructions) ☐ being administered by a Decedent's Personal Representative

6a. Check only if applicable and check only one box:
☐ Public-Finance Transaction ☐ Manufactured-Home Transaction ☐ A Debtor is a Transmitting Utility

6b. Check only if applicable and check only one box:
☐ Agricultural Lien ☐ Non-UCC Filing

7. ALTERNATIVE DESIGNATION (if applicable): ☐ Lessee/Lessor ☐ Consignee/Consignor ☐ Seller/Buyer ☐ Bailee/Bailor ☐ Licensee/Licenser

8. OPTIONAL FILER REFERENCE DATA:

[UCC1-316405]

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